

C/m

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
FIDO'S FENCES, INC.,

Plaintiff,

-against-

THE CANINE FENCE COMPANY,

Defendant.
-----X

MEMORANDUM AND ORDER

CV 08-754

(Wexler, J.)

APPEARANCES:

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WEXLER, District Judge

This is a case, commenced approximately one year ago, in which Plaintiff, Fido's Fences, Inc. ("Fido's") seeks injunctive relief against Defendant, The Canine Fence Company ("Canine"). At the core of the case are issues regarding the contract between the parties. The

court denied the application for preliminary injunctive relief. Discovery has been ongoing and the case is near trial ready.

In January 2009, an action was commenced in the United States District Court for the District of Tennessee asserting claims sounding in trademark infringement (the "Tennessee Action"). Fido's Fences, Plaintiff herein, and defendant in the Tennessee Action, has moved before the Tennessee Court to dismiss that action for lack of personal jurisdiction and venue, or, in the alternative, to transfer that action to this court.

Presently before this court is the motion fo Fido's to stay all proceedings in this action pending a decision by the court in the Tennessee Action. In light of the facts that this case involves different issues, discovery is about to close, and the case is therefore near trial ready, the motion to stay is denied. The Clerk of the Court is directed to terminate the motion to stay proceedings, which appears to be docketed twice, as motions under documents numbered 86 and 92 on this court's docket.

SO ORDERED


LEONARD D. WEXLER
UNITED STATES DISTRICT JUDGE

Central Islip, New York
March 9, 2009